

REMARKS

Further evaluation of the present invention, in view of the known prior art, reveals that the patentably significant differences between the same are apparent as such when one considers the very different contexts in which audio-visual recordings of the specific business transaction at-issue are made.

As discussed previously with Examiner, it is certainly true that events have been recorded, both audio and audio/visual, for years. This includes video depositions, which might, at first, be considered the closest prior art, in view of the legal protection aspect/benefit of the present invention (among other benefits). However, the context and nature of vehicle purchase transactions helps highlight the significance (unobviousness) of the differences of the present invention, as now claimed, vis a vis any known prior art.

Unlike a video deposition, a vehicle transaction involves no professional advocates, at least on the part of the consumer. Such a transaction is, in part, a negotiation in which an (unrepresented) amateur is on one side, and a person who may, or may not be professionally trained, diligent in legal disclosures, or even competent represents the vehicle dealership. Particularly in view of the number and complexity of applicable consumer disclosure laws and regulations, as well as the simple magnitude of the transaction itself, a vehicle purchase transaction presents countless opportunities for either intentional or inadvertent mis-steps, with the consumer, the dealership, or both ending in serious legal peril.

Not only does applicant's present system provide for *later* verification of who said what, the very use of the system "keeps people honest" in the first place. Whether the vehicle dealership employee who knows he or she is being recorded, is more diligent in

making the required disclosures and otherwise following dealership policy and applicable laws and regulations, or a consumer with “buyer’s remorse” knows that, because of the recorded event, it would be fruitless to fabricate an alleged misrepresentation claim against the dealership, the over-all quality of the transaction, and the honest behavior of the participants therein are enhanced by the use of the present system. As is now established through industry trends, use of the present system, not only prevents losses related to legal disputes, but increases sales, by insuring that sales people conduct transactions as they are trained to do.

The systems and methods of the present invention are now widely adopted in the industry precisely because of the differences from any known prior art, which differences make the systems and methods practicable for on-going use in the vehicle dealership context.

Another item of generally relevant prior art discussed before is that of the recording of telephone call center calls (in part, presumably for legal protection). That context is, again, very different from a vehicle purchase transaction, at least in part, because of distinguishing factors mentioned above.

The industry acclaim (***see accompanying trade journal article***) of methods pioneered in the vehicle dealership industry by the present inventors (as claimed) illustrates that, however “close” the prior art might at first appear, it was self-evidently not close enough to make the present method obvious. This is evidenced by that fact that, even though dealerships were losing (or not making) substantial sums for lack of the present system (as illustrated in comments in the accompanying trade journal article), the present system (now widely adopted and praised, once introduced by the present inventors’

company) was nowhere used or suggested in the industry. Despite the availability of recording equipment, the unwieldy nature of video tapes, as well as a lack of practicable storage and retrieval methods or systems (as provided and claimed for the present method) was sufficient disincentive that substantially no one in the industry recorded transactions at all, and those who did, lacked the utility and surprising results now enjoyed by those using the present method.

In short, a vehicle purchase transaction is virtually unique in all of commerce. Such a transaction is both complex and of a magnitude such that, in virtually any other context, legal representation would likely be involved. However, legal representation at a automobile purchase transaction is completely impracticable. Practices in other fields, involving the audio/visual recording of "transactions" or other events, were not sufficient to make their adaptation to the vehicle purchase transaction context obvious to those in the field, though it would later be shown to be enormously beneficial to those same participants.

With specific reference to the most recently cited prior art: Haber has only to do with substantiating the date/time of creation of a digital document, and proving later alterations due to a "signature" of the original document.. Haber nowhere suggests creating an audio/video record of a vehicle purchase transactions. The present system might be used in conjunction with Haber's system, but Haber does not suggest the creation of that which is to be verified.

Concerning Fekas: this reference teaches the recording of presentation of an identification card to prove what and by whom it was presented. There is no suggestion: (1) to audio/video record any entire business transaction (vehicle transaction, in particular);

nor (2) to store the record in a searchable database for later search and retrieval. The context of secured entry identification or "carding" for age-related restrictions is different from vehicle purchase transactions, and is urged to be non-analogous prior art.

According to Fekas:

[0008] Images of the entire identification transaction, as scanned by the document, portrait, and profile cameras and, additionally, the current situation outside the door, as scanned by the entry line camera, are recorded on a cassette in the VCR, along with the time and date. If it is later determined that an underage patron gained entry and now claims that he or she was not carded, the cassette can be replayed for authorities.

* * * *

Although not shown or detailed, the system 1 may include microphones and circuitry for recording the sounds of conversation between the operator 44 and the patron 11, in addition to the video components detailed. (emphasis added)

The "mug shot approach" taught by Fekas would, even if somehow adaptable to the context in which the present system is uniquely suited, deter retail customers in a vehicle transaction context. Also, the fact that Fekas suggests that one **may** add audio indicates that he is not suggesting application in a vehicle transaction context (non-analogous prior art), where audio is probably the *most* important thing.

With respect to the new claim language, and as requested by Examiner during our preceding meeting, I will provide the antecedent basis for the present claim terminology:

“creating a digital audio-visual record” - *inter alia*, Page 8, lines 6, *et seq.*

“creating a computer-searchable identifier” - *inter alia*, Page 7, line 22 - Page 8, line 3

“storing said digital, audio-visual record and said computer-searchable identifier in a computer database” - *inter alia*, Page 8, line 9, *et seq.*

“...substantially indelible recording medium....” - *inter alia*, Page 8, line 15, *et seq.*

“playing said digital, audio-visual record to confirm the contents of communications...” - *inter alia*, Page 9, line 15, *et seq.*

Drawings

No drawing changes are involved.

CLAIM AMENDMENTS

1. Claim 1 is canceled.
2. Claim 2 is canceled.
3. Claim 3 is canceled.
4. Claim 4 is canceled.
5. Claim 5 is canceled.
6. Claim 6 is canceled.
7. (New claim) A business method for documenting vehicle purchase transactions comprising the steps of:
creating a digital, audio-visual record of communications between a vehicle dealership representative and a consumer during all or part of a vehicle purchase transaction;
creating a computer-searchable identifier of said digital, audio-visual record;
and
storing said digital, audio-visual record and said computer-searchable identifier in a computer database.

8. (New Claim) The business method of Claim 7 further comprising the step of recording said digital, audio-visual record and said computer-searchable identifier onto substantially indelible recording media.

9. (New Claim) The business method of Claim 7 further comprising the step of, at a time subsequent to said vehicle purchase transaction, searching for and retrieving said digital, audio-visual record using said computer-searchable identifier, and playing said digital, audio-visual record to confirm the contents of communications between said vehicle dealership representative and said consumer during said vehicle purchase transaction.

10. (New Claim) The business method of Claim 8 further comprising the step of, at a time subsequent to said vehicle purchase transaction, searching for and retrieving said digital, audio-visual record using said computer-searchable identifier, and playing said digital, audio-visual record to confirm the contents of communications between said vehicle dealership representative and said consumer during said vehicle purchase transaction.

Respectfully submitted,

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